data and the multi-level data is usable to determine whether the test data is normal." At least these limitations require statutory computation processes. This "requires a functional interrelationship among that data and the computing processes performed when utilizing that data. As such, ... it implements a statutory process." M.P.E.P. § 2106.01(II)

Claims 1-15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Powelson et al. in view of Fujita et al. (US 5,469,420). This rejection is respectfully traversed. Neither Powelson et al. nor Fujita et al., even when considered in combination, teaches or suggests all of the limitations of independent claims 1 or 13-15.

Claim 1 recites an information recording/reproducing apparatus comprising, *inter alia*, "a test data examining unit examining the reproduction signals of the multi-level data including the test data to determine whether the test data is normal, wherein determining whether the test data is normal comprises determining whether a distribution of the test data is within a predetermined range" (emphasis added). Claims 13-15 recite similar limitations. Applicant respectfully submits that Powelson et al. and Fujita et al., even when combined, fail to teach or suggest these limitations.

To the contrary, Fujita et al. teaches that the "threshold values L_{S1} and L_{S2} [are] used for detection of a reproduction signal of actual reproduction data of each sector." Col. 5, ln. 35-37 (emphasis added). The threshold values L_{S1} and L_{S2} "are calculated from distribution information of the reproduction data of the sector." Col. 5, ln. 37-38. No test data is used, only the data to be reproduced. Applicant respectfully submits that Fujita et al. does not disclose, teach, or suggest determining whether the test data is normal comprises determining whether a distribution of the test data is within a predetermined range, as recited in claims 1 and 13-15. The Office Action admits at page 3 that Powelson

et al. fails to disclose these limitations. Thus, Powelson et al. does not remedy the deficiencies of Fujita et al.

Furthermore, since Fujita et al. is directed toward detecting only the actual data to be reproduced (Col. 5, ln. 35-37), one skilled in the art would not look to Fujita et al. to modify Powelson et al. to reach the claimed invention. Fujita et al. teaches away from using test data, teaching rather that actual reproduction data is used "even if a level variation or an amplitude variation takes place ... optimum threshold levels L_{S1} and L_{S2} can always be set." (Col. 5, ln. 38-39 and 44-45)

Applicant submits that the Office Action has not properly shown that the Applicant's claims would have been obvious by conducting an examination of the Graham factors. Instead, to show that Powelson et al. and Fujita et al. may be properly combined and that the Applicant's claims are obvious in light of these references, the Office Action merely stated that it would be obvious to combine Fujita et al. with Powelson et al. "to compensate for abnormal differences in reflection values that may result from part of the test data." Office Action at p. 3. This unsupported statement is not an adequate substitution for an analysis of the Graham factors and does not show obviousness. As stated above, Fujita et al. does not relate to test data at all.

Since Powelson et al. and Fujita et al. do not teach or suggest all of the limitations of claims 1 and 13-15, claims 1 and 13-15 are not obvious over the cited combination. Claims 2-12 depend from independent claim 1, and are patentable at least for the reasons mentioned above, and on their own merits. Applicant respectfully requests that the 35 U.S.C. § 103(a) rejection of claims 1-15 be withdrawn and the claims allowed.

In view of the above, Applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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